

MODIFICATION OF THE WHITTEN AMENDMENT

JULY 26, 1965.—Ordered to be printed

MR. YARBOROUGH, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 6622]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 6622) to exempt the postal field service from section 1310 of the Supplemental Appropriation Act, 1952, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

H.R. 6622 would remove the postal field service from the numerical restrictions on permanent employee positions imposed by the Supplemental Appropriation Act of 1952 (Public Law 82-253). Under that law, the total number of permanent employee positions in the Federal service cannot exceed by more than 10 percent the number of positions existing on September 1, 1950.

JUSTIFICATION

Section 1310(a) of the Supplemental Appropriation Act of 1952, commonly referred to as the Whitten amendment, was designed to prevent an unwarranted increase in the number of permanent employees in the Federal service as a result of the national emergency caused by the Korean conflict. The Korean conflict ended 12 years ago, but the numerical limitation upon permanent positions remains in the law. For most Federal agencies, this has worked no particular hardship. For the Post Office Department, however, the normal increase in mail volume has necessitated an increase in the number of postal field service employees so that mail can be delivered.

To accomplish its basic objective of speedily and efficiently delivering the Nation's mail (now in excess of 72 billion pieces a year), the Post Office Department has been required to employ more than its pro

rata share of the total Federal work force. Congress in 1962 provided some relief from the restrictions of the Whitten amendment when it authorized a 10-percent exemption of the postal field service's pro rata share of permanent positions (Public Law 87-793). The Department has substantially improved employee efficiency to absorb some of the increased mail volume, but employee efficiency cannot indefinitely absorb the continuously rising volume of mail. As a result, the Post Office Department has employed temporary substitutes (who are not subject to the Whitten amendment) to fill the gap. At this time, there are more than 59,000 temporary substitutes in the postal field service.

Temporary appointments are an inadequate solution to the problem. Temporary employees have no significant job security, are not entitled to all fringe benefit programs which regular employees enjoy, do not receive premium compensation for overtime work, and can never be sure they will be employed tomorrow. The frequent result is that competent and qualified candidates for postal employment refuse temporary appointments in the expectation that a regular position may become available at a future date. The limitations imposed by the Whitten amendment make that prospect unfavorable.

The status of the permanent employee ceiling as of October 1, 1964, is shown in the following table:

	Total	Postal	Nonpostal
Ceiling fixed by Public Law 82-253.....	1,893,236	440,421	1,452,815
Increase in ceiling authorized by Public Law 87-793.....	40,038	40,038	0
Augmented ceiling.....	1,933,274	480,459	1,452,815
Permanent employees as of October 1964.....	1,931,973	525,187	1,406,786
Room in ceiling.....	1,301	(44,728)	46,029

This table shows that the 1950 pro rata share of the total ceiling for the postal field service is 440,421 permanent employees. The 10-percent exemption granted by Public Law 87-793 increased that share by 40,038 to a new ceiling of 480,459. However, there were 525,187 permanent postal service employees as of October 1964, or 44,728 permanent employees in excess of the pro rata ceiling for the postal field service.

The nonpostal portion of the Federal service cannot be expected to continue to absorb the increase required by the postal service and stay within the overall ceiling which, as of October 1964, had room for only 1,301 additional employees.

By exempting the postal service from the Whitten amendment, the nonpostal ceiling, as fixed by Public Law 82-253, as amended, will be 1,452,815 permanent employees. This legislation will have the effect of releasing the 44,728 positions currently filled by the postal service, which are in excess of the postal service pro rata share of the ceiling. Thus, the actual number of nonpostal permanent employees (1,406,786) as of October 1964, would be 46,029 below the nonpostal ceiling of 1,452,815.

Repeal of the Whitten amendment as it affects the postal field service, combined with the Post Office Department's appropriation for fiscal year 1966 (which includes funds for additional permanent positions) will provide an effective program for solving many of the postal service's employment and management problems.

First, it will provide relief from the problem of overtime work which has reached the critical stage in the past few months. Evidence strongly indicates that employees all over the Nation are working far in excess of a 40-hour week. In 1964, postal employees worked 24,000 man-years of overtime. Employees are unable to schedule summer vacations with their families because of the work requirements. A great number of examples of overtime have been called to the committee's attention in the past few months showing that thousands of employees are working between 50 and 100 hours a week. Many work 7 days a week. Employee efficiency and morale has dropped significantly.

Second, it will provide career opportunities for individuals who have civil service eligibility but who do not care to accept the uncertainty of temporary appointments. The best postal service will be provided when career employees—those who know mail schemes, have career appointments with all employee benefits, status, and seniority rights—occupy most of the postal positions. The temporary employee, with few rights and no job security, cannot reasonably be expected to develop a lasting interest in a job which he may not have tomorrow.

Third, it will provide an opportunity for certain qualified temporary employees to attain career status. Under Executive Order 11187, temporary employees who have worked at least 700 hours in the postal service for each of 3 consecutive years, and who meet certain other qualifications, can be converted to career status when opportunities for appointment occur. Because of the limitations of the Whitten amendment, few career positions have become available. Some temporary employees serve indefinitely, never achieving job security or position seniority. The repeal of the Whitten amendment will help solve this problem. The Post Office Department estimates that about 15,000 temporary employees are eligible for conversion to career positions.

Finally, repeal of the restriction as it applies to the postal field service will provide a permanent solution to the problem. The original amendment has been amended twice, in 1952 and 1962, and present employment figures are dangerously close to the legal maximum. By releasing the postal service from the restriction, other agencies of Government will be able to use their rightful share of the statutory ceiling.

HEARINGS

Public hearings were held on H.R. 6622 and S. 1494, a similar bill introduced by the late Senator Olin D. Johnston, before the Postal Affairs Subcommittee on June 23, 1965. All testimony favored enactment.

COST

Repeal of the Whitten amendment will allow many temporary postal employees to be converted to career status. The only direct cost involved in such conversions is the additional cost of civil service fringe benefits which most temporaries do not enjoy and premium compensation for overtime work, which no temporary employee receives. The estimated cost of converting 20,000 temporary employees to career status would be \$3.2 million annually. This cost will be offset in part by improved employee efficiency. Permanent

employees, knowledgeable about their job and interested in a postal career, generally work more efficiently than temporary employees.

AGENCY VIEWS

Following are letters from John W. Macy, Jr., Chairman of the U.S. Civil Service Commission, on H.R. 6622, and Frederick C. Belen, Deputy Postmaster General, on S. 1494.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., June 23, 1965.

Hon. A. S. MIKE MONRONEY,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, New Senate Office Building.*

DEAR MR. CHAIRMAN: The Civil Service Commission fully supports H.R. 6622, a bill to exempt the postal field service from section 1310 of the Supplemental Appropriation Act, 1952.

This bill would remove the Post Office Department from coverage under the ceiling on the number of permanent Federal employees established in section 1310(a) of Public Law 82-253, as amended (65 Stat. 757; 5 U.S.C. 433, note). A partial step in this direction was taken in 1962 when a special exemption for the postal field service (10 percent of its permanent work force as of September 1, 1950) was provided by Public Law 87-793. We believe the further step should be taken to delete the postal field service from coverage altogether.

The original statutory provision, section 1302 of Public Law 81-843, a commonly referred to as the Whitten amendment, was enacted to prevent a rapid increase in the permanent Federal work force as a result of the Korean emergency. The language of the amendment has been changed several times since with respect to ceiling requirements, first to impose a numerical ceiling on the permanent work force limiting it in size to the number of permanent employees as of September 1, 1950, next to raise the limit to 110 percent of this 1950 total, and most recently to grant the 10 percent exemption for the postal field service referred to above.

The 14½ years since September 1, 1950, have seen many changes in the composition of the Federal work force generally and the Post Office Department specifically.

It would be beneficial to employee morale and would contribute to effective manpower management if decisions to hire permanent or temporary employees could be solely for reasons related to the employment needs of the Department and without regard to limitations imposed for other purposes.

Therefore, the Commission strongly endorses H.R. 6622.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

(Signed) JOHN W. MACY, Jr., *Chairman.*

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., April 16, 1965.

HON. OLIN D. JOHNTSON,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 1494, to make the Whitten amendment inapplicable to postal field service employees. The amendment presently restricts the hiring by the Government of permanent employees beyond a quota fixed for 1950 based on the number of employees then employed.

Since the adoption of the Whitten amendment in 1952, the constant growth in mail volume has been effecting yearly increases in the number of postal field service employees. While temporary relief has been given from the personnel ceiling restrictions by the enactment of Public Law 87-793, approved October 11, 1962, the authorized 10-percent increase in the permissible hiring of permanent employees is proving inadequate to meet the needs of our expanding service.

The increased mail volume calls for a greater number of employees than that allowed under our present permanent work force, and as an alternative it has become necessary for us to employ noncareer temporary personnel. This latter category is not the best desirable, since it lacks career status, and those hired are unsure of continued employment. It has resulted in serious employment problems because of the high turnover among the temporary group, and in addition great extra expense was caused to the Government because of the needed processing, recruiting, and the training of these temporary employees.

The percentage of personnel added to process the increased volume of mail is not as high as the increase in mail volume. We have tried, through training, better supervision, patron cooperation, and improved work methods, to hold down the total number of employees and man-hours and improve the productivity factor. We roughly add but 2 percent more man-hours to handle a 3-percent increase in mail volume, but some rise in the number of employees cannot be prevented in the face of an ever-mounting mail volume.

Today, the Department has approximately 57,000 nonpermanent postal employees, many of whom work 10 or 12 hours a day, 6 days a week. We believe that a large number of their assignments can and should be regularized and established as full-time, 8-hour-a-day assignments to be filled on a permanent (career) basis. We have in recent years, because of the importance to the stability, morale, and efficiency of the work force, tried to level out the workflow by establishing more regular full-time positions while reducing temporary substitute employment.

Mail volume will continue to increase, and with this increase there is the need for some increased postal employment. Exemption of the postal field service from the ceiling provisions of the Whitten amendment will help regularize employment in terms of increased morale and efficiency.

In advising with respect to our report on the similar bill (H.R. 6622), the Bureau of the Budget has advised that from the standpoint of the

administration's program there was no objection to the submission of that report to the committee.

Sincerely yours,

FREDERICK C. BELEN,
Acting Postmaster General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter printed in *italic*):

SECTION 1310 OF THE SUPPLEMENTAL APPROPRIATION ACT, 1952, AS AMENDED

SEC. 1310. Immediately upon the enactment of this Act and until termination of the national emergency proclaimed by the President on December 16, 1950:

(a) The Civil Service Commission and the heads of the executive departments, agencies, and corporations shall make full use of their authority to require that initial appointments to positions in and outside the competitive civil service shall be made on other than a permanent basis in order to prevent increases in the number of permanent personnel of the Federal Government in excess of 10 per centum above the total number of permanent employees on September 1, 1950: *Provided*, [That increases in the number of permanent personnel in the Postal Field Service not exceeding 10 per centum above the total number of its permanent employees on September 1, 1950 shall not be chargeable to this limitation: *And provided further*,] That any position vacated by a permanent employee called to military service or transferred to a national defense agency shall not be filled except on a temporary or indefinite basis. All appointments, reinstatements, transfers, and promotions to positions subject to the Classification Act of 1949 shall be made with the condition and notice to each individual appointed, reinstated, transferred, or promoted that the classification grade of the position is subject to post-audit and correction by the appropriate departmental or agency personnel office or the Civil Service Commission: *Provided further*, That any agency may promote any employee permanently to a position if such promotion will not increase the number of employees holding permanent positions in the grade of such position in such agency above the number in such grade in such agency prior to September 1, 1950: *Provided further*, That permanent promotions may be made to any position in a category for which the Civil Service Commission authorizes permanent appointments under the terms hereof.

(b) The Civil Service Commission shall facilitate the transfer of Federal employees from nondefense to defense activities and encourage the retention of employees in defense activities, and shall provide reemployment rights for permanent employees in the activities from which such employees are transferred.

(c) The Civil Service Commission shall make full use of its authority to prevent excessively rapid promotions in the competitive civil service and to require correction of improper allocations to higher grades of positions subject to the Classification Act of 1949, as amended. No person in any executive department or agency whose position is subject to the Classification Act of 1949, as amended, shall be promoted or transferred to a higher grade subject to such Act without having served at least one year in the next lower grade: *Provided*, That the Civil Service Commission for positions in the competitive service and the head of the employing agency for positions outside the competitive service may by regulation provide for promotions of two grades in one year (1) to positions not higher than GS-5; (2) to positions not higher than GS-11 which are in a line of work properly classified under the Classification Act of 1949 at two-grade intervals; (3) to positions in the same line of work when the employee has completed a training period under a training program approved by the Civil Service Commission for positions in the competitive service, or approved by the head of the employing agency for positions outside the competitive service; and (4) of an employee of the agency concerned when there is no position in the normal line of promotion in the grade immediately below that of the position to be filled: *Provided further*, That this subsection shall not apply to any case involving an employee who is within reach for appointment to a higher grade position on a competitive civil service register, or is eligible for appointment, in accordance with a regular appointment system or procedure established prior to September 1, 1950, to a higher grade position outside the competitive Civil Service, or being advanced up to a grade level from which he had been demoted or separated because of reduction in force or being advanced to a grade level not exceeding that for which he had previously established eligibility as required by the terms hereof: *Provided further*, That, notwithstanding the provisions hereof, and in order to avoid undue hardship or inequity, the Civil Service Commission, when requested by the head of the agency involved, may authorize promotions in individual cases of meritorious nature.

(d) From time to time, but at least annually, each executive department and agency shall (1) review all positions which since September 1, 1950, have been created or placed in a higher grade or level of difficulty and responsibility of work or in a higher basic pay level, (2) abolish all such positions which are found to be unnecessary, (3) with respect to such positions which are found to be necessary, make such adjustments as may be appropriate in the classification grades of those positions which are subject to the Classification Act of 1949, as amended, or in the basic pay levels of those positions which are subject to other pay-fixing authority. Not later than July 31 of each year each department and agency shall submit a report to the Post Office and Civil Service Committees and Appropriations Committees of the Senate and House of Representatives concerning the action taken under this paragraph, together with information comparing the total number of employees on the payroll on June 30 and their average grade and salary with similar information for the previous June 30, and each annual and supplemental budget estimate shall include a

statement comparing the average grade and salary provided for in each item of appropriation or fund allowance therein with similar figures reported for the two previous periods.

(e) This section does not and shall not be construed to amend or modify the Veterans' Preference Act of 1944 (Public Law 359, Seventy-eighth Congress), as amended.

(f) *This section shall not apply to the postal field service of the Post Office Department.*

